

JAN 28 2015

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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 88-96, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) Any member who ceases to be an employee and who  
4 became a member before July 1, 2012, and has fewer than five  
5 years of credited service, excluding unused sick leave, or who  
6 becomes a member after June 30, 2012, and has fewer than ten  
7 years of credited service, excluding sick leave, shall, upon  
8 application to the board, be paid all of the member's  
9 accumulated contributions and the member's membership shall  
10 thereupon terminate and all credited service shall be forfeited;  
11 provided that a member shall not be paid the member's  
12 accumulated contributions:

13       (1) If the member becomes an employee again within fifteen  
14 calendar days from the date the member ceased to be an  
15 employee; or

16       (2) If, at the time the application for return of  
17 accumulated contributions is received by the board,  
18 the member has become an employee again.

1 Regular interest shall be credited to the former employee's  
2 account until the former employee's accumulated contributions  
3 are returned to the former employee; provided that the former  
4 employee's membership shall not continue after the fourth full  
5 year following the calendar year in which the individual's  
6 employment terminates. Upon termination of the former  
7 employee's membership, the former employee's credited service  
8 shall be forfeited and, if the former employee's accumulated  
9 contributions are \$1,000 or less at the time of distribution,  
10 the system shall return the former employee's contributions to  
11 the former employee. If the former employee does not become an  
12 employee again and if the former employee's accumulated  
13 contributions have not been withdrawn by the former employee or  
14 previously returned by the system to the former employee, the  
15 system shall return the former employee's accumulated  
16 contributions to the former employee as soon as possible after  
17 the later of: (A) the former employee attains age sixty-two[-];  
18 or (B) the termination of the former employee's membership."

19 SECTION 2. Section 88-341, Hawaii Revised Statutes, is  
20 amended as follows:

21 (1) By amending subsection (a) to read as follows:

22 "(a) Any class H member who ceases to be an employee and  
23 who became a member before July 1, 2012, and has fewer than five

1 years of credited service, excluding unused sick leave, or who  
2 becomes a member after June 30, 2012, and has fewer than ten  
3 years of credited service, excluding unused sick leave, shall,  
4 upon application to the board, be paid all of the former  
5 employee's accumulated contributions, and the former employee's  
6 membership shall thereupon terminate and all credited service  
7 shall be forfeited; provided that an individual shall not be  
8 paid the individual's accumulated contributions if either:

9 (1) The individual becomes an employee again within  
10 fifteen calendar days from the date the individual  
11 ceased to be an employee; or

12 (2) At the time the application for return of accumulated  
13 contributions is received by the board, the individual  
14 has become an employee again.

15 Regular interest shall be credited to the former employee's  
16 account until the former employee's accumulated contributions  
17 are withdrawn; provided that the former employee's membership  
18 shall not continue after the fourth full year following the  
19 calendar year in which the individual's employment terminates.

20 If the former employee does not become an employee again and has  
21 not withdrawn the former employee's accumulated contributions,  
22 the system shall return the former employee's accumulated  
23 contributions to the former employee as soon as possible after

1 the later of: (A) the former employee attains age sixty-two[-];  
2 or (B) the termination of the former employee's membership."

3 (2) By amending subsection (c) to read as follows:

4 "(c) In case of the death after the termination of service  
5 and prior to retirement of any former class H member who has not  
6 withdrawn the member's contributions, there shall be paid to the  
7 former member's estate or to the person [as] that the former  
8 member has nominated by written designation duly executed and  
9 filed with the board [~~if either~~]:

10 (1) The former [~~member had less than five years of~~  
11 ~~credited service at the time of death, the former~~]  
12 member's accumulated contributions[~~, or~~], if the  
13 former member became a member before July 1, 2015, and  
14 had fewer than five years of credited service at the  
15 time of death or if the former member became a member  
16 after June 30, 2015, and had fewer than ten years of  
17 credited service at the time of death; or

18 (2) The former [~~member had five or more years of credited~~  
19 ~~service at the time of death, the former~~] member's  
20 hypothetical account balance[-], if the former member  
21 became a member before July 1, 2015, and had five or  
22 more years of credited service at the time of death or  
23 if the former member became a member after June 30,



**Report Title:**

Employees' Retirement System

**Description:**

Provides for vested death benefits for Hybrid members who become members of the Employees' Retirement System after June 30, 2015; extends period for mandatory refund of contributions to the Employees' Retirement System.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To extend the deadline by which former State or county employees who are not eligible for retirement benefits from the Employees' Retirement System are required to take a refund of their accumulated contributions.

To make the calculation of the lump sum death benefit for survivors of former members of the hybrid plan of the Employees' Retirement System consistent with the calculation of the lump sum payable to a former hybrid plan member if the former hybrid plan member elects not to take a retirement benefit.

MEANS: Amend sections 88-96(a) and 88-341(a) and (c), Hawaii Revised Statutes.

JUSTIFICATION: Refund of Accumulated Contributions to Former State or County Employees Who Are Not Eligible for Retirement Benefits from the Employees' Retirement System

Members of the contributory and hybrid plans of the Employees' Retirement System may withdraw their retirement contributions when they terminate government service. If a former government employee withdraws the former employee's retirement contributions, the former employee's service credit for retirement purposes is forfeited. Sections 88-96(b) and 88-341(b), Hawaii Revised Statutes. If the former employee was a hybrid plan member, the forfeited service credit cannot be restored. Section 88-324(g), Hawaii Revised Statutes. If a former employee who is not eligible to receive retirement benefits does not withdraw the former employee's retirement

contributions before the former employee reaches age sixty-two, the Employees' Retirement System is required to refund the contributions when the former employee reaches age sixty-two, even if the former employee does not want the refund at that time. Former employees often do not want the refund if they are still members of the Employees' Retirement System when they reach age sixty-two because they hope to re-enter government service to earn sufficient service credit to become eligible to receive a retirement benefit. (The age sixty-two deadline does not apply to individuals who are still employed by the State or a county.) This measure amends sections 88-96 and 88-341 to extend the deadline by which former employees (i.e., individuals who are not employed by the State or a county) who are not eligible to receive retirement can be forced to take a refund of their retirement contributions to four calendar years after they terminated government service, even though they are older than sixty-two.

#### Calculation of Lump Sum Death Benefit

There is a discrepancy between: (1) the service requirements for the amount of the lump sum payable to members of the hybrid plan who apply for withdrawal of their retirement contributions after terminating government service; and (2) the service requirements for the amount of the lump sum payable to beneficiaries of members of the hybrid plan who die following termination of service but before retirement or withdrawal of their retirement contributions.

When a member of the hybrid plan terminates service with "vested benefit status," the former member may elect to receive, in lieu of a monthly retirement benefit, a lump sum payment of the former member's "hypothetical account balance," which, depending upon when the member became a member of the Employees'



Retirement System, is generally one and one-half times or one and one-fifth times the member's "accumulated contributions."

Sections 88-341(b) and 88-311, Hawaii Revised Statutes. If the former member does not have vested benefit status, the former member is only entitled to receive a refund of the former member's accumulated contributions. Section 88-341(a), Hawaii Revised Statutes. Hybrid plan members who became members of the Employees' Retirement System prior to July 1, 2012, attain vested benefit status upon acquiring five years of credited service. Section 88-341(b), Hawaii Revised Statutes. Hybrid plan members who become members of the Employees' Retirement System after June 30, 2012, need at least ten years of credited service to attain vested benefit status. Ibid. The increase in the number of years required for vested benefit status was part of the pension reforms enacted by Act 163, Session Laws of Hawaii 2011.

If a member of the hybrid plan dies after terminating service but before retiring, the former member's beneficiary is entitled to a lump sum payment equal to: (1) the former member's hypothetical account balance, if the former had at least five years of credited service upon termination of service; or (2) the former member's accumulated contributions, if the former member had less than five years of credited service upon termination of service.

Section 88-338(a), Hawaii Revised Statutes. The minimum service requirement for payment of a deceased member's hypothetical account balance to the deceased member's beneficiary was not changed when the minimum service requirement for payment of a former member's hypothetical account balance to a living former member was increased from five to ten years by Act 163.

This measure amends section 88-338, Hawaii Revised Statutes, to increase to ten years

the amount of credited service required for payment of a lump sum death benefit equal to the deceased member's hypothetical account balance.

Impact on the public: None.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.